

2007 ASSEMBLY BILL 22

02.15.07

This legislation, as proposed, restricts the use of a computer by a person who has committed a serious child sex offense and who is ~~placed~~ on probation, extended supervision (ES), or parole. Under the bill, as a condition of community supervision, a child sex offender may not use a computer unless it is running software that **prevents** the person from accessing specifically "computerized child pornography" or that **records** any such access for review by the person's community supervision agent. In addition, the bill mandates all of the following for each child sex offender who is ~~placed~~ on probation, ES, or parole:

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- 1) he or she must consent to DOC searching his or her computer at any time;
- 2) ~~he or she~~ must allow DOC to monitor and review his or her use of any computer to communicate with others; and
- 3) ~~he or she~~ must allow DOC to install and use software, on any computer that he or she uses, to help prevent the computer from being used to entice a child.

Finally, the bill requires the Department to monitor the use of computers by child sex offenders who are ~~placed~~ on probation, ES, or parole.

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We certainly understand and respect the goal of this legislation. Accessing child pornography, particularly by child sex offenders, is a statewide concern and a concern for the ~~community~~ supervising agents managing sex offenders in the community. Restricting and monitoring a child sex offender's access to images of child pornography is certainly in the best interest of public safety and the offender's rehabilitation.

The Department of Corrections currently has the authority to search and monitor an offender's computer and ~~could~~ ^{can} install software to block or record an offenders' computer activity. The Department of Corrections also routinely monitors ~~sex offenders'~~ ^{all} (not just child sex offenders) computer use through forensic investigation. In terms of community protection and managing sex offenders in the community, the Department of Corrections has an interest in detecting a range of deviant and sexually explicit material that a sex offender may access that would be counterproductive to sex offender programming. This bill isolates the specific issue of accessing solely child pornography.

The bill raises several implementation issues for the Department of Corrections:

- Currently, all offenders under community supervision must already, as a condition of supervision, allow the Department of Corrections to search any property under his/her control. This would include the ability to search an offender's computer. In addition, all sex offenders under community supervision are prohibited from possessing or viewing any sexually explicit material (visual, auditory, or computer generated) ~~without prior agent approval~~. Sex offenders are also, as a condition of supervision, prohibited from purchasing, possessing, or using a computer, software,

hardware, or modem without prior agent approval. Seemingly, this bill would narrow the scope of the Department of Correction's ability/authority to:

- Monitor the computer use of sex offenders who are not by conviction "child sex offenders"
- Monitor the computer use of sex offenders who have a prior conviction for a serious child sex offense, but are on active community supervision for an offense other than a child sex offense (e.g., a consecutive Bailjumping charge)
- Prohibit a child sex offender from using/possessing a computer; the bill implies that computer use/possession will be permitted as long as the software is installed. It is a common sex offender management approach to NOT allow child sex offenders or any sex offender to use/possess a computer at the onset of supervision: permission may be granted once a thorough assessment of the offender's risks and needs is completed.

Allow a child sex offender, after completion of sex offender treatment, long-term compliance with the rules of supervision, and compliance verification via a maintenance/monitoring polygraph to use/possess a computer without the software being required.

It would further narrow Dept authority to

The bill specifically attempts to block or report a child sex offender's access to child pornography. Accessing, possessing, and/or distributing child pornography is not merely a violation of supervision, but illegal behavior. In terms of software that would alert/notify a community supervision agent to the offender's success at accessing the child pornography, the matter would instantly rise to the level of a criminal investigation and be referred to local law enforcement. Law enforcement would need to complete a forensic investigation, which is more thorough and provides a much broader array of information than the monitoring software. This type of blocking or monitoring software may address attempts at accessing Web-based searches, but it may not address an offender's ability to share or receive digital or scanned photos and share them via email. Nor would it tell us if the offender was attempting to groom/entice a child via a chat room. For every form of blocking or monitoring software written, there is software written to circumvent it. This bill would require the Department to alert the offender of the presence of the software and therefore allow them the opportunity to try to beat the software. However, a forensic investigation of the computer would uncover the totality of an offender's computer activity.

The primary mission of the Department of Corrections is to enhance public safety. The Department of Corrections has worked diligently to stay abreast of the most current research on sex offender management in the community. We have used that information to craft thoughtful policies to encompass all sex offenders while recognizing that a one size fits all approach is not the answer and that we need to continue making thoughtful case planning decisions in regards to the sex offenders we supervise in the community. An important goal is to assist these offenders in self-managing their behavior in order to prepare them for the point in time they discharge from supervision.

My dear Mr. [Name],

I have just received your letter of the 10th inst.

and am glad to hear that you are well and
hope that you will continue to be so.

I am sorry to hear that you are not
well and hope that you will soon be
able to return to your home.

I am sure that you will be able to
do so and that you will be able to
continue your work.

I am sure that you will be able to
do so and that you will be able to
continue your work.

I am sure that you will be able to
do so and that you will be able to
continue your work.